IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2789 of 2007

The Orange City Education and Medical
Foundation & ors. .. Petitioners

versus

All India Council for Technical
Education & ors. .. Respondents

...

Mr.A.V. Anturkar i/b Sugandh B. Deshmukh for the petitioner.

None for the respondent.

CORAM : S.B. MHASE AND
D.G.KARNIK, JJ

DATED : 26th July 2007.

P.C.:

. Heard Mr.Anturkar for the petitioner.

2. The petitioner is a Company registered under section 25 of the Companies Act. It desired to open an Engineering College. However, the said permission

has been rejected by AICTE only on the ground that the petitioner is not a public trust and it is a company. Learned counsel for the petitioner submitted that such a type of discrimination is violative of Article 14 of Constitution of India and the petitioner cannot be refused permission only on the ground that it is a company. We need not consider this argument in view of the decision of the Apex Court in the case of Unnikrishnan reported in (1993) 1 SCC 645. "Therein the Apex Court has observed: "A professional college shall be permitted to be established and/or administered only by a Society registered under the Societies Registration Act, 1860 (or corresponding Act, if any, in force in a given State), or by a Public Trust, religious or charitable, registered under the Trusts Act, Wakfs Act (or corresponding legislation, if any, eg. Tamil Nadu Religious and Charitable Endowments Act and the A.P. Religious and Charitable Endowments Act). No individual, firm, company or other body or individuals, by whatever appellation called - except those mentioned above will be permitted to establish and/or administer a professional college".

3. These observations of the Apex Court appear to have been made keepeing in view the provisions of

section 10 clause (n) of the All India Council or Technical Education Act,1987 which casts a duty on AICTE to take all necessary steps to prevent commercialisation of technical education.

4. Learned counsel for the petitioner submits that being a section 25 company it is similar to a public trust or a net profit organisation and it is not entitled to declare any dividend. However, in the Supreme Court in categorical terms held that company shall not be permitted to open such a college and no exception is made in respect of a company registered under section 25 of the Companies Act. We are bound by the decision of the Supreme Court and feeling bound, we are constrained to reject this petition.

(D.G. KARNIK, J) (S.B. MHASE,J)